

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

COMAIR LIMITED,

Plaintiff,

v.

THE BOEING COMPANY, and DOES 1  
through 100, inclusive,

Defendants.

Case No. 2:23-cv-00176-RSM

**UNOPPOSED MOTION AND ORDER  
TO AMEND THE COURT’S JUNE 21,  
2024 ORDER [DKT. 80]**

**NOTE ON MOTION CALENDAR: July  
19, 2024**

Since this Court issued its June 21, 2024 Order [Dkt. 80] (the “Order”) requiring Plaintiff Comair Limited (“Comair”) to make its 30(b)(6) witness(es) available for an in-person deposition in Seattle within 30 days, Comair – *a South African company in liquidation with no current employees* – has worked diligently with its third-party, former employees, to determine whether such individuals were willing participants, available, and legally-capable (e.g., passport and travel visa) of traveling to Seattle to testify on behalf of Comair within the time period set by the Court.

As previously previewed to the Court [Dkt. 70], this has been an arduous process for Comair, with many moving parts – one which is still ongoing for some of Comair’s potential 30(b)(6) witnesses, including:

**Erik Venter**: Mr. Venter is willing to testify as an FRCP 30(b)(6) witness for Comair. However, as of the date of the Order, he did not have a valid passport or travel visa. Following the issuance of the Order and upon his agreement, Mr. Venter obtained an in-person appointment with the “Home Affairs” office in South Africa to apply for a new passport. The earliest available appointment was last week and Mr. Venter completed the application. Mr. Venter has been advised that the earliest his passport will be issued is 14 business days after the in-person appointment – i.e., next week at the earliest. Following receipt of the passport, Mr. Venter will then apply for a travel visa at the US Embassy, which could take another approximate 2-3 weeks. Mr. Venter is working diligently to obtain the necessary South African and United States government-required documentation to travel to Seattle for deposition during the week of August 12, 2024.

**Derek Borer**: Mr. Borer is willing to testify as an FRCP 30(b)(6) witness for Comair. Following the issuance of the Order and upon his agreement, Mr. Borer was able to determine that traveling under his Lithuanian passport may be more expedient. As such, Mr. Borer has commenced his application for an ESTA through an automated system that determines the eligibility of visitors to travel to the United States under the Visa Waiver Program. According to the U.S. government website, Mr. Borer should receive confirmation of the ability to enter the United States by early next week.

Despite these diligent and ongoing efforts, Comair, Mr. Venter and Mr. Borer remain at the mercy of the various government agencies to timely issue the requisite documentation for travel to Seattle.

1 While Comair was diligently identifying and working with its potential witnesses to  
 2 comply with the Order, as shown above, it was also meeting and conferring with Defendant  
 3 The Boeing Company (“Boeing”) as to the availability of all counsel to take and defend  
 4 these depositions because the availability of counsel could materially affect Comair’s  
 5 potential witnesses’ willingness, availability or capability to travel to Seattle from South  
 6 Africa. For example, as shown, Mr. Venter could not attend an in-person, July deposition in  
 7 Seattle even if he wanted to, given his passport and visa status at the time of the Order.

8 Following a conference call, and several email exchanges between counsel, on July  
 9 17, 2024, the parties agreed to conduct these 30(b)(6) depositions during the week of August  
 10 12, 2024, when both:

- 11 (1) Comair’s 30(b)(6) witnesses would be available and [most-likely] legally-  
 12 capable of attendance in-person; and
- 13 (2) Counsel would be available to take and defend the depositions.

14 Based on the foregoing agreement of counsel, Comair respectfully requests that,  
 15 pursuant to Local Civil Rule 10(g) and Local Civil Rule 7(d)(1), the deadline for production  
 16 of Comair’s 30(b)(6) witness(es) in the Court’s Order be extended from 30 to 60 days – i.e.,  
 17 up to and including August 20, 2024. This short extension will not necessitate the change of  
 18 any other deadline in this action.

19 Comair respectfully requests that the Court enter an order extending the deadlines as  
 20 set forth above.

21  
 22 Dated: July 19, 2024

23 By: s/ Marc P. Miles  
 24 Hunter K. Ahern, WSBA No. 54489  
**Shook, Hardy & Bacon L.L.P.**  
 25 701 Fifth Avenue, Suite 6800  
 26 Seattle, WA 98104-7066  
 Telephone: (206) 344-7600  
 Facsimile: (206) 344-3113  
 hahern@shb.com

1 Marc P. Miles (admitted pro hac vice)  
2 Kristy A. Schlesinger (admitted pro hac vice)  
3 **Shook, Hardy & Bacon L.L.P.**  
4 5 Park Plaza, Suite 1600  
5 Irvine, CA 92614  
6 Telephone: (949) 475-1500  
7 Facsimile: (949) 475-0016  
8 mmiles@shb.com  
9 kschlesinger@shb.com

10 *Attorneys for Plaintiff Comair Limited*

**ORDER**

Based on the foregoing, the Court hereby modifies the June 21, 2024 Order [Dkt. 80] deadlines as follows: The deadline for production of Comair's 30(b)(6) witness(es) in the Court's June 21, 2024 Order is extended from 30 to 60 days – i.e., up to and including August 20, 2024.

IT IS SO ORDERED.

DATED this 2<sup>nd</sup> day of August, 2024.



RICARDO S. MARTINEZ  
UNITED STATES DISTRICT JUDGE

1 **CERTIFICATE OF SERVICE**

2 I certify under penalty of perjury that on July 19, 2024, I caused to be electronically  
3 filed the foregoing document with the Clerk of the Court using the CM/ECF system, which  
4 will send a notification of the filing to the email addresses indicated on the Court's  
5 Electronic Mail Notice List.

6  
7 Dated: July 19, 2024

/s/ Marc P. Miles  
Marc P. Miles